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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

9 United States of America,

No. CR-17-8315-PCT-SPL

10 Plaintiff,

11 vs.

**UNITED STATES' MOTION FOR
UPWARD DEPARTURE AND/OR
VARIANCE AND SENTENCING
MEMORANDUM**

12 Georgina Warren,

13 Defendant.
14

15 The United States submits this sentencing memorandum requesting that this Court
16 grant an upward departure and/or variance and sentence Defendant to a total prison term
17 of 10 years.¹ The government further requests thirty-six months of supervised release.

18 An upward variance is warranted, as recommended by the probation officer,
19 pursuant to 18 U.S.C. Section 3553(a). Further, the government requests an upward
20 departure based on U.S.S.G. § 5K2.21 (Dismissed and Uncharged Conduct); and U.S.S.G.
21 § 4A1.3 (Inadequacy of Criminal History Category). Any of these bases alone or combined
22 justify the requested sentence of ten years, which is in the best interests of justice.

23 **Analysis and Argument**

24 The Sentencing Guideline range is “the ‘starting point and the initial benchmark,’”
25 which should “be kept in mind throughout the process.” *United States v. Carty*, 520 F.3d
26 984, 991 (9th Cir. 2008) (en banc) (citations omitted). After considering the Sentencing

27 ¹ The court can accomplish this by adopting the probation officer’s recommendation for
28 variance pursuant to 18 U.S.C. § 3553(a) and by adopting the government’s requested
additional 6-level upward departure.

1 Guideline range, the “district court should then consider the § 3553(a) factors to decide if
2 they support the sentence suggested by the parties.” *Id.* Sentences that significantly depart
3 from the Guideline calculation require the Court to “consider the extent of the deviation
4 and ensure that the justification is sufficiently compelling to support the degree of the
5 variance.” *Id.* at 991-92.

6 **I. 18 U.S.C. § 3553(a) Upward Variance**

7 Title 18, United States Code, Section 3553(a) requires that this Court impose a
8 sentence “sufficient but not greater than necessary,” based on the following factors:

- 9 (1) the nature and circumstances of the offense and the history and characteristics of
10 the defendant;
11 (2) the need for the sentence imposed —
12 a. to reflect the seriousness of the offense, to promote respect for the law, and
13 to provide just punishment for the offense;
14 b. to afford adequate deterrence to criminal conduct;
15 c. to protect the public from further crimes of the defendant; and
16 d. to provide the defendant with needed educational or vocational training,
17 medical care, or other correctional treatment in the most effective manner.

18 18 U.S.C. § 3553(a). To justify her recommended sentence, the PSR writer has moved for
19 an upward variance pursuant to 18 U.S.C. § 3553(a) (Draft PSR at pg. 17). The government
20 believes that the probation officer’s request for an upward variance is appropriate, but
21 believes the facts support a higher upward variance to a prison term of 10 years.

22 Victim Georgeson Warren was not a nice guy; he had a violent history and had
23 previously served time in prison for aggravated assault. He was not a nice guy on the day
24 he was murdered: he had thrown a bottle and a rock at a resident of a home who had come
25 outside to tell him to go away. Nonetheless, he did not deserve to be murdered in cold
26 blood by his angry sister, Defendant Georgina Warren.²

27 ² The facts contained herein are all detailed in the discovery provided to defense
28 counsel and are contained in Exhibit 1, which is part of such discovery.

1 On September 2, 2017, Defendant Warren was at the home of Vanessa Jones and
2 Anthony Cly. On this date, Defendant Warren woke Vanessa Jones and told her “my
3 brother’s outside.” (Vanessa Jones and Anthony Cly were known bootleggers on the
4 reservation and Victim Georgeson and two of his friends came to their residence to get
5 alcohol). Bootlegger Vanessa Jones went outside and told the men not to approach the
6 property. Victim Georgeson picked up a rock and threw it at Vanessa Jones’ vehicle.
7 Victim Georgeson then picked up a bottle and threw it at Vanessa Jones, which hit Vanessa
8 Jones in the arm. Vanessa Jones kicked the bottle toward Victim Georgeson, who picked
9 up the bottle again and threw it at Vanessa Jones, striking her in the stomach. Victim
10 Georgeson did not have any firearm on this day. Defendant Warren told Vanessa Jones
11 that she only fired a weapon in the air, not at Victim Georgeson. (Exhibit 1: Bates 44-45;
12 48-49).

13 Jameson Holiday was one of the men with Victim Georgeson on this date. He told
14 law enforcement that Anthony Cly and Vanessa Jones were the “local bootleggers” and
15 that this is why they were at the home on this date. Mr. Holiday went to the front door
16 while Victim Georgeson decided to stay back because his (Georgeson’s) sister (Defendant
17 Warren) might be at the house. When Mr. Holiday was at the door, Defendant Warren said
18 “who’s that fucker,” (seemingly referring to Victim Georgeson.) Defendant Warren
19 threatened “you have 10 seconds or I will get my gun.” Defendant Warren came out with
20 a .22 rifle and Victim Georgeson said “shoot me bitch.” Mr. Holiday heard 4-5 shots from
21 the rifle and heard bullets fly by him as he, himself was running away. Mr. Holiday knew
22 Defendant Warren and Vanessa Jones to be users of methamphetamine; he believed both
23 were high on the date of the shooting. Mr. Holiday believed that Defendant Warren shot
24 Victim Georgeson on purpose. (Exhibit 1: Bates 48-49).

25 Cheyenne Scoval, Defendant Warren’s girlfriend, saw Victim Georgeson throw a
26 bottle at Vanessa Jones. Ms. Scoval saw Defendant Warren fire a gun at Victim Georgeson.
27 She believed that Defendant Warren fired the gun 3 to 4 times. After the shooting, she
28 heard Defendant Warren say “Fuck, I hit my brother.” Despite Defendant Warren’s

1 apparent knowledge that she hit her brother, upon information and belief, Defendant
2 Warren never went to his aid and never sought medical attention for him. (Exhibit 1: Bates
3 42).

4 Bootlegger Anthony Cly told law enforcement that he heard the males outside and
5 heard Vanessa Jones tell the men to go away. He heard Defendant Warren go outside and
6 tell the men to leave the area. After Vanessa Jones told the group that she had been hit by
7 a bottle, Anthony Cly saw Defendant Warren grab a BB gun and go outside. Defendant
8 Warren then came back inside, returned the BB gun and grabbed a .22 rifle. Anthony Cly
9 heard a shot. Defendant Warren then came into the house and said "I shot in the air."
10 (Exhibit 1: Bates 46).

11 Defendant Warren was interviewed by the FBI and gave various stories about what
12 happened on this date. She confirmed that she grabbed a BB gun and "was going to shoot
13 it up." When she was outside, the men yelled at her, so she went back into the house and
14 grabbed the .22 rifle. She told law enforcement that she "did not know the gun was loaded."
15 Defendant Warren first said she pointed the gun in the air, pulled the trigger once and it
16 went off. She said she did not realize she shot her brother (despite the fact that she told her
17 girlfriend that she hit her brother.) Defendant Warren then changed her story and said she
18 pointed the gun at the ground and fired it because she wanted the men to leave. She
19 estimated that approximately 10 to 15 minutes passed between the time Vanessa Jones had
20 been hit with the bottle and the time that she shot her brother. (Exhibit 1: Bates 4-6).

21 Defendant Warren believed that Victim Georgeson was about 100 feet away when
22 she shot at him. The evidence diagram is consistent with this estimate. (Exhibit 1: Bates
23 6, 68). Defendant Warren said that she shot one time, despite the statements of at least
24 two witnesses that she fired between 3 to 5 rounds. To believe Defendant Warren, that she
25 shot a single time, would mean that she had a dead-eye, perfect aim at Victim Georgeson
26 when she shot him through the chest, or that she simply had a very unlucky, accidental
27 single shot that happened to hit him in the chest.

1 Only 4 months after she shot and killed one brother, Defendant Warren threatened
2 to kill another brother. On January 2, 2018, Defendant Warren was drunk at her home.
3 Brother Gordon saw that she was drunk and angry and thus, he tried to chase her out of the
4 home. Defendant Warren held her hand, in the gesture of a gun, pointed her finger at
5 Gordon and said “you’re next, boom.” She also brandished a 12-inch kitchen knife, which
6 she pulled out of her pocket. (Exhibit 1: Bates 96-97).

7 After Defendant Warren was arrested for this homicide, she was released. A petition
8 to revoke her release was thereafter filed because she failed to remain law abiding and in
9 fact had used methamphetamine.

10 The facts of this case justify a 10-year sentence. Defendant Warren clearly had time
11 to consider her actions. She believed at least 10 to 15 minutes elapsed from the time Victim
12 Georgeson threw a bottle and the time that Defendant Warren killed him. Bootleggers Cly
13 and Jones were safely in their home, as were Defendant Warren and girlfriend Cheyenne
14 Scoval. There was no immediate danger. Defendant Warren first threatened the men with
15 a BB gun. When that did not work, she obtained the .22 rifle. She fired it at all three men,
16 not just her brother. Jameson Holiday heard the shots near his head as he ran for his life.
17 Defendant Warren had no regard for the safety of the other two men.

18 Defendant Warren clearly intended to shoot her brother on this date. She shot him
19 once through the chest, refuting any allegation that this was an “accident.” Further, she
20 told her girlfriend that she shot her brother. If she had only accidentally shot him, surely
21 she would have gotten him medical attention. She did not, but rather, let him lay on the
22 ground bleeding from his gunshot wound.

23 Defendant’s criminal history, in particular, her threats of violence to another
24 brother, in effect to shoot him, are extremely troubling. This conduct is not the action of
25 an extremely remorseful sister. Rather, it is the conduct of a troubled, angry, dark-hearted
26 woman who acted as if the prior shooting were a badge of courage and that she would not
27 hesitate to use the same remedy against another brother. The threats with a knife evidence
28 that same dark heart. Finally, when she was given an opportunity to clean up her life on

1 pre-trial release, she violated the order of the court and used methamphetamine. All of
2 these facts support a 10-year sentence based on Title 18, United States Code, Section
3 3553(a).

4 **II. U.S.S.G. § 5K2.21 Upward Departure: Dismissed and Uncharged**
5 **Conduct**

6 The original charges in this case included Second Degree Murder and 924(c).
7 Second Degree Murder carries a potential sentence of life in prison. The 924(c) charge
8 carries a maximum term of life in prison, and a mandatory sentence of 10 years. If
9 Defendant had shot and killed a stranger in this same manner, she would not have been
10 afforded the benefits of this plea agreement. However, upon first meeting Victim
11 Georgeson's family, and throughout other meetings with them, they continued to urge for
12 leniency towards Defendant Warren. It is unknown if they too believed Defendant Warren,
13 that this was simply an "accident," or if the pain of losing two family members was simply
14 too great for them. However, the government has paid great deference to Victim
15 Georgeson's family by making this very lenient plea offer. Further, shortly after this case
16 was charged, it became apparent that Bootleggers Cly and Jones (who are also family to
17 Defendant Warren) would likely side with Defendant Warren and try to support her version
18 of the events, and perhaps retract some of their earlier statements. Finally, Defendant
19 Warren will have to live with the fact that she murdered her own brother, a hefty emotional
20 sentence that counsel undersigned will not attempt to minimize.

21 Despite the wishes of Victim Georgeson's family, as well as the potential adversity
22 to the prosecution of this case, the facts show that Defendant Warren was given a huge
23 benefit from this plea agreement. Thus, this court can consider this benefit pursuant to
24 U.S.S.G. § 5K2.21. The government submits that this guideline thus supports the requested
25 10-year sentence.

26 **III. U.S.S.G. 4A1.3 Upward Departure: Inadequacy of Criminal History**
27 **Category**

28 An upward departure can also be warranted "if reliable information indicates that

1 the defendant's criminal history category substantially underrepresents...the likelihood
2 that the defendant will commit other crimes." U.S.S.G. § 4A1.3(a)(1). Among other things,
3 this information can include "prior similar adult criminal conduct not resulting in a criminal
4 conviction." U.S.S.G. § 4A1.3(b)(E).

5 In the case at bar, Defendant Warren stands before the court with the same criminal
6 history category as a person who has never before committed a criminal offense. She
7 stands before the court without any adjustment for or consideration of the extremely
8 repulsive, criminal act of threatening to shoot a second brother and threatening him with a
9 knife. The sentencing guidelines allow this court to consider her criminal history that has
10 not increased her criminal history category. She should be treated more harshly than a
11 person with no criminal history.

12 **Conclusion**

13 The United States submits that a total sentence of 10 years is sufficient, but not
14 greater than necessary to satisfy the objectives of 18 U.S.C. § 3553(a). Based on the
15 foregoing, the government respectfully requests that this Court grant the government's
16 motion for upward departure and/or variance and impose a ten-year prison term.

17 Respectfully submitted this 2nd day of August, 2018.

18 ELIZABETH A. STRANGE
19 First Assistant United States Attorney
District of Arizona

20 s/ Sharon K. Sexton
21 SHARON K. SEXTON
Assistant U.S. Attorney

22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on this same date, I electronically transmitted the attached
24 document to the Clerk's Office using the CM/ECF System for filing a copy to the following
25 CM/ECF registrants: Marc Victor, *Attorney for Defendant* and Susan Narkevich, U.S.
Probation.

26 s/ Marjorie Dieckman
27 U.S. Attorney's Office
28